

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

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|------------------------------------|---|---------------------------|
| CHARLES JACKSON, |) | Case No. 1:21-cv-01679 |
| |) | |
| Plaintiff, |) | Judge J. Philip Calabrese |
| |) | |
| v. |) | Magistrate Judge |
| |) | Jonathan D. Greenberg |
| CITY OF CLEVELAND, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

MINUTES AND ORDER

The Court held a hearing on the record on December 19, 2023. Elizabeth Bonham and Sarah Gelsomino appeared for Plaintiff. Matthew Aumann, William Menzalora, Dylan Ford, and Gilbert Blomgren appeared for Defendant City of Cleveland. Kenneth Calderone appeared for the Individual Officer Defendants. The Court heard arguments from counsel on Plaintiff's motion to strike and the positions articulated in the parties' respective briefs on the issue. (ECF No. 100; ECF No. 102.)

After emphasizing the narrowness of its ruling and the issue before it—the availability of Rule 37(c)(1)'s self-executing sanction of exclusion of certain opinions of joint defense expert John Black or of particular items of underlying evidence—the Court **DENIED IN PART** the motion and **DEFERRED IN PART** a ruling. For the reasons stated on the record, the Court:

(1) did not recognize or enforce any procedural bar to the motion under the Local Rules or the Court's Civil Standing Order; and

(2) determined that the evidence at issue (previously undisclosed print cards referred to in Mr. Black's expert report), did not fall within Defendants' disclosure obligations under Rule 26(a)(1), making the self-executing sanction under Rule 37(c)(1) unavailable; but

(3) had an insufficient record to determine whether Mr. Black's report contains the information required under Rule 26(a)(2)(B)(i) and so deferred a ruling on that question and the related issue under Rule 37(c)(1).

Further, as stated in its Order of December 15, 2023 (ECF No. 101), the Court made no ruling under Rule 702.

SO ORDERED.

Dated: December 19, 2023

A handwritten signature in black ink, appearing to read 'J. Philip Calabrese', written over a horizontal line.

J. Philip Calabrese
United States District Judge
Northern District of Ohio